

## Extension of ASA remit helps make social media safe for marketers

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### Full text

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Perhaps the biggest impact of the new ASA rules is to validate social media

Earlier this month the ASA announced new CAP Code guidelines that will come into force on 1 March 2011. In short, the ASA's remit now covers marketing communications on brands' own websites and in 'non-paid-for spaces under their control'. In other words: social media.

This is good news for the industry because it recognises that social media has become an essential part of marketers' repertoire. It takes the responsible position that social media should be subject to the same regulation as any other form of advertising or marketing, including rules around misleading ads, social responsibility and the protection of children. We've always voluntarily applied the ASA code of practice to our work, so it's nice to now be on a level playing field.

It's also good that the ASA seems to have listened to the advice of the IAB's Social Media Council, encouraging interaction rather than scaring off marketers from having genuine conversations with people.

The new rules explicitly don't cover comments from members of the public unless marketers include them in their own material. For example, in terms of the ASA regulations, marketers only need worry about what they're saying on their Facebook page, campaign blog or community, not what members of the public do or say. Of course, this doesn't mean it isn't a good idea to moderate that content. But it does mean there'll be no additional concern from legal teams as a result of the new ASA rules.

Marketers should also remember that their social media interactions are already governed by UK law in the form of the Consumer Protection from Unfair Trading Regulations 2008. Among other things, these prohibit brands from 'astroturfing' and creating 'flogs' - that is, falsely representing themselves as members of the public. They also place responsibility on brands to ensure bloggers disclose any payments made to them (a practice common in the murky world of viral seeding).

There are still some grey areas in the new ASA rules, most notably the distinction between 'marketing communications', which are under the remit, and 'press releases and other public relations material' and 'editorial content', which aren't. Surely a press release is marketing communications in its purest form? Our advice to clients is to assume any communication from them in social media is marketing and so falls under the remit. This is no bad thing as responsible marketers shouldn't be saying anything that falls foul of the rules anyway.

Perhaps the biggest impact of the rules is to validate social media. Now marketers can show their boards that it's not a risky, unregulated wild west but a mature form of marketing they can't afford to ignore.

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